

[REDACTED]
[REDACTED]
[REDACTED]
MAR 29 1989

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

You were incorporated on [REDACTED] under the laws of [REDACTED].

Your stated purposes in pertinent part are:

1. To preserve and develop the beauty of the [REDACTED] area.
2. To educate the general public as to the historic value and natural beauty of the area and to encourage local governmental authorities to preserve the environment of the area.
3. To sponsor a project called "[REDACTED]" which stands for [REDACTED] at [REDACTED].

You have indicated a primary activity of your organization is the investigation of possible developments which may adversely affect the beauty of the area and result in deterioration of the natural environment. You monitor the activities of local government which relate to construction, commercial developments and zoning in [REDACTED].

Your [REDACTED] project seeks to oppose the construction of an office complex in the [REDACTED] area. Through direct mailings, members of the corporation have already voiced their concerns to the [REDACTED] and selected others to do the same. You plan to appear at county site inspections and your members have been monitoring the activities of local officials with respect to zoning, and approval of plans, etc.

Code	By [REDACTED]	at [REDACTED]	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]				
Date	3-1-89	3/16/89	3/1/89			

[REDACTED]

You have retained a private land use attorney to assist in any legal proceeding which may arise in connection with the opposition to this building. Any such litigation will be financed through public contributions.

You indicate that benefits will inure and services will be provided to the community of [REDACTED] and the general public. Your membership is comprised of the Board of Directors and an advisory group to be appointed by the Board. No membership dues are required, however, you encourage area families to contribute \$[REDACTED] to your cause.

Your sources of financial support will consist of contributions, substantially from area residents. Of your total projected expenditures of \$[REDACTED], \$[REDACTED] or [REDACTED]%, is for legal expenses.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 501(c)(3) of the Code describes an exempt organization as being organized and operated exclusively for charitable purposes with no part of the net earnings inuring to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the income tax regulations provides that, in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated for one or more of the purposes specified in that section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(b) of the regulations provides that an organization is organized exclusively for the required purposes only when its charter or other creating document authorizes it to carry on only activities that are in furtherance of those purposes. An organization is not organized exclusively for exempt purposes if its articles expressly empower it to carry on, other than as an insubstantial part of its activities, activities which are not in furtherance of exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is not broader than the purposes specified in section 501(c)(3). Also, an organization is not organized exclusively for the required purposes unless its assets are dedicated to an exempt purpose.

[REDACTED]

Section 1.501(c)(3)-1(c) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it primarily engages in activities which accomplish exempt purposes.

In Revenue Ruling 80-278, C.B. 1980-2 p 175, an organization formed to protect and restore environmental quality and whose principal activity consists of instituting litigation as a party plaintiff to enforce environmental legislation was held exempt under section 501(c)(3) of the Code. This ruling is unlike your position as you are not enforcing existing laws, but opposing local zoning.

In, *Benedict Ginsberg and Adele W. Ginsberg, Petitioners, v. Commissioner of Internal Revenue*, respondent, 46 T.C. 47(1966), the corporation was organized and operated primarily for the benefit of those persons owning property adjacent to the waterways dredged, rather than for public or charitable purposes, so that contributions to it are not deductible under section 170, IRC 1954.

Your activities are directed towards purposes not in furtherance of section 501(c)(3) of the Code. It is clear that the principal, if not the sole purpose, of the organization is to prevent the construction of the [REDACTED] at [REDACTED] for the benefit of those persons owning property or living in the community thereof. Any objective to benefit the general public by preventing this construction, if it exist, at all, is a secondary one. As these persons are receiving the benefits, the income of the organization is inuring to them.

In light of the above, we hold that you are not entitled to exemption under section 501(c)(3) of the Code because you are not organized and operated exclusively for charitable purposes. You are, therefore, required to file federal income tax returns.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If we do not hear from you within 30 days of the date of this letter, this ruling will become final.

[REDACTED]

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceedings unless the Tax Court, Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892

cc: [REDACTED]

cc: [REDACTED]